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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

MAY 7 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Implementation of Sections of the)
the Cable Television Consumer)
Protection and Competition Act of)
1992)

RATE REGULATION)

MM Docket 92-266

PETITION FOR LIMITED STAY OF EFFECTIVE DATE

The National Cable Television Association, Inc. ("NCTA"), respectfully requests that the Commission grant a limited stay of the effective date of its rules in the above-captioned proceeding until the end of the freeze on August 3. Such a stay is necessary to ensure that cable operators have an opportunity, throughout the period that the freeze on rate increases is in effect, to calculate their maximum permissible rates and to adjust their tiers and rates as contemplated by the Commission.

WHY A LIMITED STAY IS NECESSARY

On April 1, 1993, the Commission adopted two orders in this proceeding. First, the Commission adopted a comprehensive set of rules to implement the rate regulation provisions of the Cable Television Consumer Protection and Competition Act of 1992. Second, the Commission adopted a temporary rule freezing rates for service subject to regulation under the Act. During the 120-day freeze, cable operators are permitted to retier services and raise or lower rates for particular tiers of service, but the

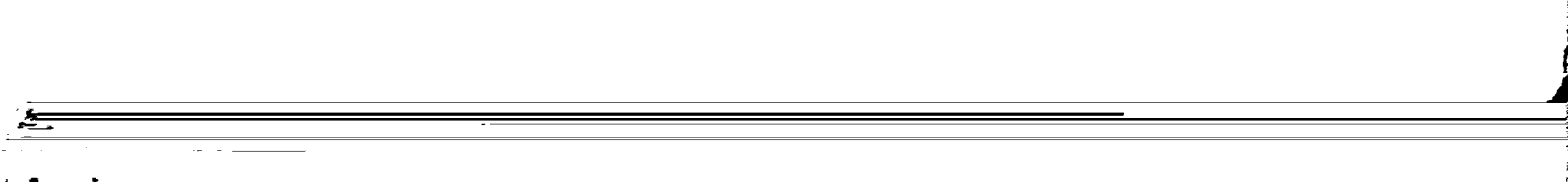
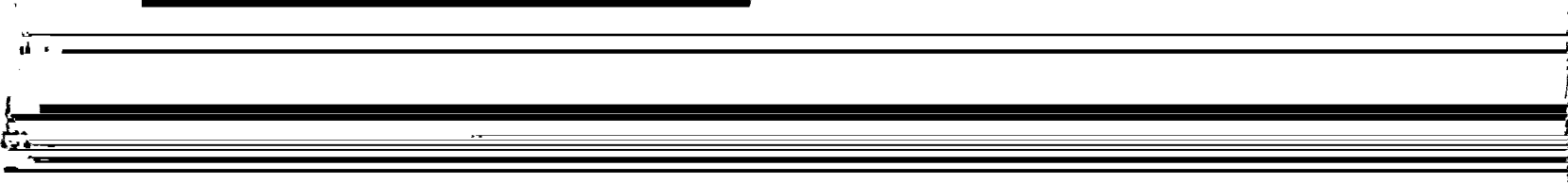

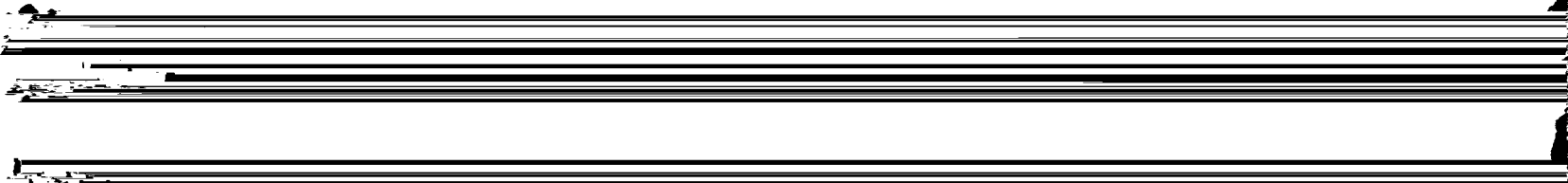
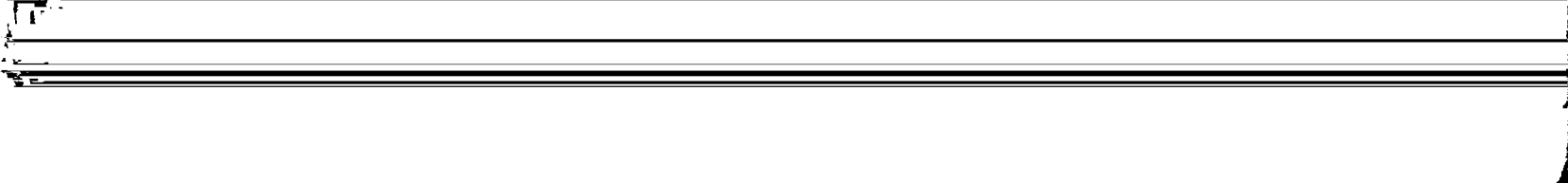

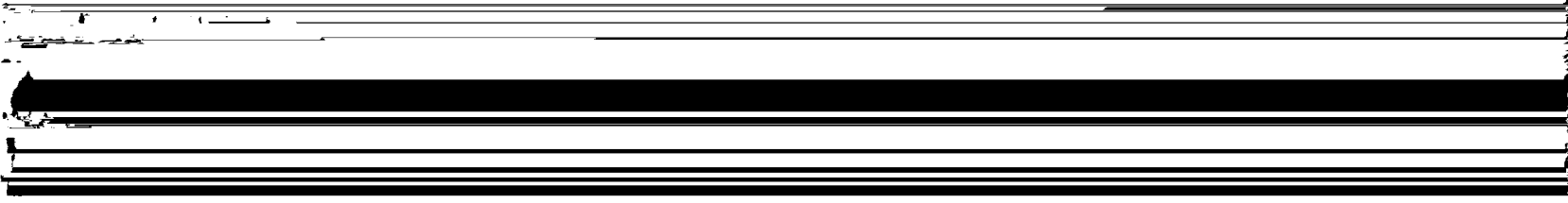
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average monthly subscriber bill for regulated services may not increase above the average bill in effect on April 5, 1993.

The Commission explained that the freeze served two purposes. First, the Commission was

"concerned that during the period between the adoption of our rules and the date that a local franchising authority can establish regulation of the basic service tier rates, and that consumers can file complaints with the Commission concerning potentially unreasonable rates for cable programming services, cable operators could raise



Moreover, even after the rules are understood, it will take a substantial amount of time for each operator to figure out its permissible rates. Like taxpayers seeking to determine their tax liability from the tables published by the Internal Revenue Service, cable operators cannot readily determine their permissible rates from the benchmark tables published by the Commission until they have completed a number of complex worksheets. And those worksheets themselves require operators to identify various equipment costs and other information that may not be readily apparent or available.

Meanwhile, although the freeze does not expire until August 3, the deadlines by which cable operators must either take action to adjust their rates or face unrecoverable lost revenues may occur much sooner. And they are rapidly approaching.

The current effective date of the new rules is June 21. On that date subscribers and franchising authorities may begin filing complaints at the FCC regarding rates for "cable programming service" tiers. Cable operators could be liable from that date forward for refunds of any non-basic tier rates in excess of permissible rates.

This raises a particular problem: It may be the case that even if a cable system's non-basic rates exceed benchmark levels, its overall rates do not -- because its basic rates lie below the benchmark. The freeze order allows a system, in such circumstances, to adjust rates -- raising basic rates and lowering non-basic rates on a revenue-neutral basis. Indeed, the

freeze order appears designed to provide a reasonable transition period for just such adjustments.

This particular problem reflects a broader concern: Given the complexity of the rules, there simply is not sufficient time to enable operators to adjust their rates by June 21 when the rules are currently supposed to take effect. It would be difficult for many operators even to determine by June 21 precisely how best to adjust rates and tiers in response to the new rules.

In any event, rate changes cannot be implemented overnight. After a system determines its optimal rate structure, subscribers

adoption and release of the rules, the complexity of determining each system's maximum permissible rate, and the June 21 effective date effectively eliminate any reasonable transition period.

Extending the effective date of rate regulation to August 3, from June 21, poses no risk of interim higher rates. The freeze remains in effect. There is no danger that average subscriber rates will increase substantially -- or, indeed, that they will increase at all. There is little reason, therefore, not to allow cable operators the full 120 days during which rates are frozen to adjust their rates to take into account the new rules.

It will be difficult enough to make such adjustments by August 3, when the freeze expires. But extending the effective date will cause no harm and will allow operators at least an opportunity to establish rates and recover revenues to which, under the new rules, they are entitled.

Further, to the extent that advance notice to subscribers or other requirements of state and local authorities prevent cable operators from adjusting rates during the transition period or prior to the new effective date, we request the Commission to declare that, in light of its intention to permit such rate adjustments, notice requirements inconsistent with the new effective date are preempted.

CONCLUSION

For the foregoing reasons, NCTA requests that the Commission